IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 18085 of 2004

Between:

Chinnappa Subba Rao, @ Subbaiah, S/o.Late Ramaiah,
R/o.Ramathirtham Village, Vidavalur Mandal, Nellore Dist.

..... PETITIONER

AND

1 The Commissioner of Endowments, Tilak Road, Hyderabad.
2 The Dy.Commissioner of Endowments, Guntur.
3 The Asst.Commissioner of Endowments, Nellore.
4 Sri Prasanna Venkateswara Swamy, Devasthanam, Alaganipadu, Vootakur

Village, Vadavalue Mandal, Nellore Dist. rep.by its Managing Trustee.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the notices for auction of leasehold rights in respect of Acs.2-13 cents in survey Nos. 526 and 529, patta No. 231 wrongly shown as s.No.178 in the notice situated at Ramathirtham Village, Vidavaluru Mandal, Nellore District dated 25-09-2004, as illegal, arbitrary and unjust by issuing appropriate writ, order or direction, particularly one in the nature of writ of mandamus and pass.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No. 1 to 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.4 : Smt. N.Indrani

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the 4th respondent as well as learned Government Pleader appearing for the respondents 1 to 3.

As can be seen from the material on record, the petitioner, who claims to be the cultivating tenant, is in occupation of an extent of Ac.2-13 cents of land situated in Sy.Nos.526 and 529, Patta No.231, wrongly shown as S.No.178 in the notice situated at Ramthirtham village, Vidavaluru Mandal, Nellore District belonging to the 4th respondent-Temple.

The contention raised by the petitioner is that being a landless poor person, he is entitled to the benefit of Section 82 (2) of the A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') and therefore the 4th respondent is not entitled either to dispossess him or to put the leasehold rights of the land in question to public auction.

Whether the petitioner is a landless poor person as defined under the Explanation to Section 82 (2) of the Act and whether he is entitled to the protection under the said provision is a matter for enquiry by the 3rd respondent and cannot be gone into by this Court.

Accordingly, without expressing any opinion with regard to the claim of the petitioner, the writ petition is disposed of granting liberty to the petitioner to make a claim before the 3rd respondent-Assistant Commissioner of Endowments, Nellore, Nellore District, within a period of two weeks from today,

in which event, the same shall be considered in accordance with law and appropriate orders be passed within a period of two weeks thereafter. Till such time, status quo obtaining as on today as to the nature and possession of the lands in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

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08-11-2004

klp

To

1 The Commissioner of Endowments, Tilak Road, Hyderabad.
2 The Dy.Commissioner of Endowments, Guntur.
3 The Asst.Commissioner of Endowments, Nellore.
4 Sri Prasanna Venkateswara Swamy, Devasthanam, Alaganipadu, Vootakur

Village, Vadavalue Mandal, Nellore Dist. rep.by its Managing Trustee.

5. 2CCs to G.P. for Endowments, High Court buildings,

Hyderabad.(OUT).

6. 2CD copies